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REMARKS

Applicant thanks the Examiner for the consideration given the present application. Claims 1-21 are pending, of which claims 1, 8, 13, and 18 are independent. Claims 4, 5, 7-9, 12, 14, and 18 are amended to make minor changes in punctuation and for consistency with the remaining claims. Claim 18 is further amended to recite "loss count" as opposed to "lost count" and to correct a misspelling.

Applicant acknowledges the indication that claims 5-7, 10-12, 14-16, 19, and 20 include allowable subject matter. However, as discussed below, all pending claims are believed to be allowable. Accordingly, Applicant traverses the rejection of claims 1-4, 8, 9, 12, 13, 17, 18, and 21 under 35 U.S.C. §103(a) as being unpatentable over Sabaa et al. (U.S. 6,389,016) in view of Bahl (U.S. 6,629,151).

Independent claims 1 and 13 are directed to a method of and apparatus for measuring the efficiency of data transmission in a network in which data packets have sequence numbers and sending stations retransmit packets which are deemed to be lost having a combination of steps, including detecting the occurrence of a sequence number less than a next expected sequence number as being indicative of occurrence of packet retransmission, and incrementing

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a retransmission count in accordance with the quantity of retransmitted data.

Independent claims 8 and 18 are directed to a method of and apparatus for monitoring data transmission in a network in which data packets have sequence numbers and sending stations retransmit packets which are deemed to be lost having a combination of steps, including detecting the occurrence of a sequence number greater than a next expected sequence number to as being indicative of occurrence of packet loss at the point, and incrementing a loss count in accordance with the quantity of lost data at the point.

Neither Sabaa nor Bahl discloses or suggests a method or apparatus having the combinations of steps and elements set forth in independent claims 1, 8, 13, and 18.

Contrary to the assertion in the Office Action, Sabaa does not disclose or suggest detecting the occurrence of a sequence number "less than" (claims 1 and 13) or "greater than" (claims 8 and 18) a next expected sequence number. Instead, Sabaa describes detecting a sequence number "different from" an expected value (column 6, line 40) or, in other words, detecting that the sequence number of a received packet "does not match" an expected sequence number (column 9, line 55). These broad statements by Sabaa are not equivalent to and do not render obvious the requirements recited in Applicant's independent claims 1, 8, 13, and 18.

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At column 10, line 25, Sabaa states, "All retransmitted packets with sequence numbers less than the expected sequence number of 8 are discarded by the receiver 72." It cannot be inferred from this sentence, quoted in the Office Action, that such packets are identified by the receiver as being retransmitted. It simply means that such (retransmitted) packets are discarded. Read in context, the whole passage makes clear that an entire group of packets is retransmitted (column 10, line 22), and the receiver discards some (having a sequence number less than 8) and accepts others. The receiver makes no identification of the packets as being "retransmitted".

Contrary to the assertion in the Office Action regarding the passage at column 6, line 23-30, Sabaa does not disclose incrementing a retransmission count in accordance with quantity of retransmitted data. Sabaa states, "The expected sequence number generally starts from zero and is incremented when a received packet is accepted." There is no disclosure here regarding counting the quantity of retransmitted data; Sabaa merely describes a simple count of received packets, *without regard to the quantity of data a packet contains*. Sabaa also refers to incrementing the sequence number "when a received packet is accepted." Nothing in this passage discloses or suggests restricting the count to whether a

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packet is retransmitted. Instead, Sabaa increments the count in response to acceptance of the packet.

Because Sabaa fails to disclose or suggest the subject matter of Applicant's independent claims 1, 8, 13, and 18, it is unnecessary to dwell on the secondary reference. Applicant notes for the record, however, that Bahl, taken alone or in combination with Sabaa, does not cure at least the shortcomings of Sabaa discussed above with respect to Applicant's independent claims.

In view of the foregoing amendments and remarks, favorable reconsideration and allowance are deemed in order, and such action is respectfully requested.

To the extent necessary, Applicant hereby requests any required extension of time not otherwise requested and hereby authorizes the Commissioner to charge any prescribed fees not otherwise provided for, including application processing, extension, and extra claims fees, to Deposit Account No. 07-1337.

Respectfully submitted,

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